

APR 03 2008



Sandia National Laboratories

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California Patent & Licensing Office

Date: 04/03/08
To: Office of Petitions/US Patent & Trademark Office
FAX: (571) 273-8300
Phone: (800) 786-9199
From: Timothy Evans
No. of Pages 33+ cover

Subject: PTO Form SB64 Petition for Revival under 37 CFR §1.137(b) and Statement
and documents supporting the petition in US Application SN 10/760,139

Private and Confidential Information

The information contained in the facsimile message is intended ONLY for the private and confidential use of the designated recipient named above. This message may be an attorney-client communication, and as such is privileged and confidential. If the reader of this message is NOT the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this communication in error. Please notify us immediately by telephone at 925-294-3690 and return the original message to us by mail. Thank you.

Exceptional Service in the National Interest

APR 03 2008

PTO/SB/64 (01-08)

Approved for use through 04/30/2008. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 33532/US(SD-8481)
--	---

First named inventor: CUMMINGS

Application No.: 10/760,139

Art Unit: 1795

Filed: 01/16/2004

Examiner: OLSEN

Title: DIELECTROPHORESIS DEVICE AND METHOD HAVING NON-UNIFORM ARRAYS FOR MANIPULATING PARTICLES

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$ 1,540 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):

- ☐ has been filed previously on _____
- ☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____

- ☒ has been paid previously on February 27, 2008
- ☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

04/04/2008 PCHOMP 00000000 500583 10/760139

01 FC:1453 1540.00 DA
CSID: * DURATION (mm-ss):08-58

APR 03 2008

PTO/SB/64 (01-08)

Approved for use through 01/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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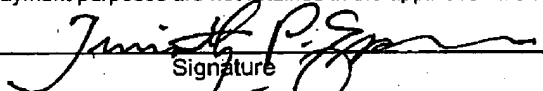
3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.


Signature

Timothy P. Evans

Typed or printed name

Sandia National Laboratories, P.O. Box 969

Address

Livermore, CA 94551-0969

Address

4/3/2008

Date

41,013

Registration Number, if applicable

925.294.3690

Telephone Number

Enclosures: ☒ Fee Payment☐ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unintentional delay☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

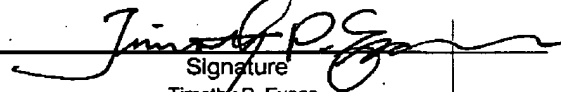
I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☒ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

4/3/2008

Date


Signature

Timothy P. Evans

Typed or printed name of person signing certificate

APR 03 2008

PTO/SB/17 (10-07)

Approved for use through 06/30/2010. OMB 0851-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number

Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2006 (H.R. 4818).**FEE TRANSMITTAL**
For FY 2008☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)

1540

Complete if Known

Application Number	10/760,139
Filing Date	01/16/2004
First Named Inventor	CUMMINGS
Examiner Name	OLSEN
Art Unit	1795
Attorney Docket No.	33532/US

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☒ Deposit Account Deposit Account Number: 50-0583 Deposit Account Name: SNL by KCO

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	310	155	510	255	210	105	
Design	210	105	100	50	130	65	
Plant	210	105	310	155	160	80	
Reissue	310	155	510	255	620	310	
Provisional	210	105	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	210	105
Multiple dependent claims	370	185

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
- 20 or HP =	x	=	
HP = highest number of total claims paid for, if greater than 20.			
Indep. Claims			
- 3 or HP =	x	=	
HP = highest number of independent claims paid for, if greater than 3.			

Multiple Dependent Claims	
Fee (\$)	Fee Paid (\$)

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$260 (\$130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/ 50 =	(round up to a whole number) x	=	

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): PETITION FEE (Fee Code 1453)

Fees Paid (\$)

\$1540

SUBMITTED BY

Signature	<i>Timothy P. Evans</i>	Registration No. (Attorney/Agent)	41, 013	Telephone	925.294.3690
Name (Print/Type)	Timothy P. Evans			Date	04/03/2008

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1460.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

COPY

APR 03 2008

PTO/SB/17 (10-07)

Approved for use through 06/30/2010. OMB 0551-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2008☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 1540

Complete If Known

Application Number	10/760,139
Filing Date	01/16/2004
First Named Inventor	CUMMINGS
Examiner Name	OLSEN
Art Unit	1795
Attorney Docket No.	33532/US

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☒ Deposit Account Deposit Account Number: 50-0583 Deposit Account Name: SNL by KCO

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

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Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	310	155	510	255	210	105	
Design	210	105	100	50	130	65	
Plant	210	105	310	155	160	80	
Reissue	310	155	510	255	620	310	
Provisional	210	105	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	210	105
Multiple dependent claims	370	185
Total Claims	Extra Claims	Fee (\$)
- 20 or HP = _____ x _____ = _____		
HP = highest number of total claims paid for, if greater than 20.		
Indep. Claims	Extra Claims	Fee (\$)
- 3 or HP = _____ x _____ = _____		
HP = highest number of independent claims paid for, if greater than 3.		

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$260 (\$130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 = _____	/ 50 = _____	(round up to a whole number) x _____	= _____	

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): PETITION FEE (Fee Code 1453)**Fees Paid (\$)**

\$1540

SUBMITTED BY

Signature	<u>Timothy P. Evans</u>	Registration No. (Attorney/Agent) 41, 013	Telephone 925.294.3690
Name (Print/Type)	Timothy P. Evans		Date 04/03/2008

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

COPY

04/03/2008 12:00 FAX

APR 03 2008

006

In re Cummings et al.

Attorney Docket No. SD-33532/US

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re Application of: CUMMINGS, et al.)

Serial Number: 10/760,139)

Examiner: OLSEN, K.

Filed: 01/16/2004)

Art Unit: 1795

For: DIELECTROPHORESIS DEVICE)

AND METHOD HAVING NON-)

UNIFORM ARRAYS FOR)

MANIPULATING PARTICLES)

Attorney Docket Number: 33532/US)

Office of Petitions
Mail Stop Petition
Commissioner for Patents
Alexandria, VA 22313-1450

APRIL 3, 2008

STATEMENT IN SUPPORT OF PETITION PURSUANT TO CFR 1.137(B)

Sir:

Applicants, through their attorneys, submit this statement in support of their petition to revive the above referenced application which was abandoned on the apparent basis that Applicants' had failed to timely pay the issue fee and publication fee in a CORRECTED NOTICE OF ALLOWANCE AND FEE(S) DUE mailed to the Applicants on November 30, 2007.

BACKGROUND

1. On October 26, 2007 Jennifer M. Lane (Reg. No. 51916) concluded an interview with Examiner Vathyam Surekha which resulted in the allowance of a single claim in the above referenced application (Exhibit A "First Interview Summary").
2. On October 30, 2007 a "Corrected" Notice of Allowance and Fee(s) Due was mailed to the Applicants (Exhibit B "Corrected Notice of Allowance"). Applicants note that there is NO record in PAIR of a Notice of Allowance generated other than the "Corrected" form sent to the Applicants. Applicants also note that the "due date" entered on this form do not

In re Cummings et al.

Attorney Docket No. SD-33532/US

provide the 3 month period allowed by statute and is likely a typographical error since the Corrected Notice of Allowance was mailed on the last day of November and the last day of the third month would have been February 29, 2008 and NOT February 19, 2008.

3. On February 4, 2008 Applicants' representative prepared to pay the issue fee in the above referenced application and found that there was NO Part B of Form PTOL-85 attached to "Corrected" form sent to the Applicants (see Exhibit B). Applicants' representative therefore reviewed the Application Data recorded in PAIR realized that Examiner Surekha had left the Examining Corps and that Examiner Kaj Olsen had been assigned this application.

4. Beginning on February 4, 2008 Applicants' representative immediately began making multiple contacts with Examiner Olsen. (see Exhibit C "Second Interview Summary"). Examiner Olsen informed this representative that the Form PTOL-85 was generated by a contractor to the USPTO and was not assessable to the Examining Corps but that he would attempt to generate a Supplemental Notice of Allowance. This representative agreed that this would be an acceptable approach.

5. However, on February 27, 2008, because Examiner Olsen continued receiving no response to his request and because no Supplementary Notice of Allowance was forthcoming, this representative prepared a Form PTO/SB/17 "Fee Transmittal" identifying the above referenced application (Exhibit D "Fee Transmittal"), a letter explaining the instant situation (Exhibit E "Letter of Explanation") and authorizing the Commissioner to pay the issue and publication fees and transmitted these documents by facsimile on February 27, 2008.

6. On February 27, 2008, the issue and publication fees were accepted by the U.S. Patent and Trademark Office ("Office") and posted against Deposit Account 50-0583 (Exhibit F "Corrected Notice of Allowance" showing annotation indicating payment received).

7. On March 26, 2008 a Notice of Abandonment (Exhibit G "Notice of Abandonment") was placed in PAIR in the File Wrapper of the present application noting that the required fees were paid on February 27, 2008 and stating that abandonment was due to "Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance".

APR 03 2008

In re Cummings et al.

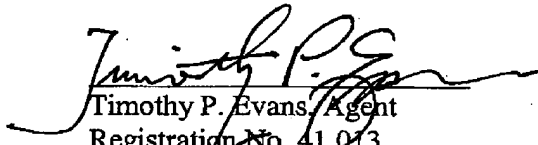
Attorney Docket No. SD-33532/US

Applicants' now respectfully assert that because the mailing date of the Notice of Allowance is clearly stated as 11/30/2007 the statutory period allowed for paying that required fees under 35 U.S.C. §151 would have remain pending through February 29, 2008. Furthermore, because Applicants' payment of fees was accepted by the Office on February 27, 2008 Applicants there was NO delay in paying the fee, that the fees were timely paid, and that the application should not have been held to be abandoned.

THEREFORE, for the foregoing reasons, Applicants respectfully PETITION the Office to vacate the holding of abandonment in Application Serial Number 10/760,139, to revive the instant application, and to pass the application to issue as the fee for such were timely paid as shown.

This reply is:

Respectfully Submitted,



Timothy P. Evans, Agent
Registration No. 41,013
Sandia National Laboratories

P. O. Box 969, MS 9031
Livermore, CA 94551-0969
Telephone (925) 294-3690

Certificate of Transmittal under 37 CFR §1.8

I hereby certify that this Correspondence and the documents referred to herein were transmitted by facsimile to: MAIL STATION PETITION, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Date of Deposit:

Person making Transmittal TP Evans

Signature 

Attachments: FORM PTO/SB/64 PETITION FOR REVIVAL (2 pages)
FORM PTO/SB/17 FEE TRANSMITTAL / Copy (2 pages)
Exhibit A "First Interview Summary" (4 pages)
Exhibit B "Corrected Notice of Allowance" (5 pages)
Exhibit C "Second Interview Summary" (4 pages)
Exhibit D "Fee Transmittal" (1 page)
Exhibit E "Letter of Explanation" (3 pages)
Exhibit F "Corrected Notice of Allowance" showing annotation indicating payment received" (1 page)
Exhibit G "Notice of Abandonment" (1 page)

EXHIBIT A



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,139	01/16/2004	Eric B. Cummings	33532/US	7218

EXAMINER	
VATHYAM, SUREKHA	

ART UNIT	PAPER NUMBER
1795	

MAIL DATE	DELIVERY MODE
11/29/2007	PAPER

7590 11/29/2007
Edward W. Bulchis
DORSEY & WHITNEY LLP
1420 Fifth Avenue
Suite 3400
Seattle, WA 98101

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

APR 03 2008

Interview Summary	Application No.	Applicant(s)	
	10/760,139	CUMMINGS ET AL.	
	Examiner	Art Unit	
	Surekha Vathyam	1795	

All participants (applicant, applicant's representative, PTO personnel):

(1) Surekha Vathyam. (3) _____

(2) Jennifer Lane. (4) _____

Date of Interview: 26 October 2007.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____

Claim(s) discussed: 1-21.

Identification of prior art discussed: not discussed.

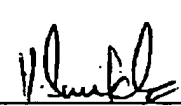
Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner.
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation Sheet (PTOL-413)

Application No. 10/760,139

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Ms. Lane was informed of the content of the Advisory Action in response to the amendments filed on 10/22/07 since it has not yet been mailed but has been approved for mailing. Particularly, the reasons for not entering new claim 22 were discussed as outlined in the Advisory Action. The examiner indicated that the rejection of claim 21 under 35 USC 103 was withdrawn however, new claim 22 did not truly represent placing claim 21 in independent form. The language of claim 21 that would need to be in independent form to place it in condition for allowance was discussed.

EXHIBIT B

APR 03 2008



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

CORRECTED NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 11/30/2007
Edward W. Bulchis
DORSEY & WHITNEY LLP
1420 Fifth Avenue
Suite 3400
Seattle, WA 98101

EXAMINER

VATHYAM, SUREKHA

ART UNIT

PAPER NUMBER

1795

DATE MAILED: 11/30/2007

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,139	01/16/2004	Eric B. Cummings	33532/US	7218

TITLE OF INVENTION: DIELECTROPHORESIS DEVICE AND METHOD HAVING NON-UNIFORM ARRAYS FOR MANIPULATING PARTICLES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1440	\$300	\$1740	02/19/2008

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** NEITHER A NOTICE OF ALLOWANCE NOR A CORRECTED NOTICE OF ALLOWANCE IS A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND ANY PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THE THREE MONTH PERIOD BEGINNING ON THE MAILING DATE OF THE PREVIOUSLY-MAILED NOTICE OF ALLOWANCE AND ENDING ON THE DATE DUE SHOWN ON THIS FORM, OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. MAILING OF THIS CORRECTED NOTICE OF ALLOWANCE DOES NOT CHANGE THE DATE DUE OF THE ISSUE FEE (AND ANY REQUIRED PUBLICATION FEE). IF A REPLY (WITH PAYMENT OF THE ISSUE FEE AND ANY PUBLICATION FEE) WAS FILED IN RESPONSE TO THE PREVIOUSLY-MAILED NOTICE OF ALLOWANCE, THEN NO FURTHER REPLY IS REQUIRED FROM APPLICANT.

All communications regarding this application must include the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE, unless advised to the contrary.

APR 03 2008



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,139	01/16/2004	Eric B. Cummings	33532/US	7218
7590 11/30/2007				
Edward W. Bulchis DORSEY & WHITNEY LLP 1420 Fifth Avenue Suite 3400 Seattle, WA 98101		EXAMINER VATHYAM, SUREKHA		
		ART UNIT 1795 PAPER NUMBER		

DATE MAILED: 11/30/2007

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 564 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 564 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability	Application No.	Applicant(s)	
	10/760,139	CUMMINGS ET AL.	
	Examiner	Art Unit	
	Surekha Yathayam	1795	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment after Final filed 10/26/07.
2. ☒ The allowed claim(s) is/are 23.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

<ol style="list-style-type: none"> 1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material 	<ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application 6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____ 7. <input type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____
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APR 03 2008

Application/Control Number: 10/760,139
Art Unit: 1795

Page 2

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance: The closest prior art is Austin et al. (US 6,824,664) in view of Christel et al. (US 6,368,871).

Regarding claim 23, Austin ('664) in view of Christel ('871) does not disclose or render obvious the step of trapping the particles in a ring around a center of the radial array, along with the remaining limitations of the claim.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Surekha Vathyam whose telephone number is 571-272-2682. The examiner can normally be reached on 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam X. Nguyen can be reached on 571-272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number: 10/760,139
Art Unit: 1795

Page 3

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SV/
1 November 2007

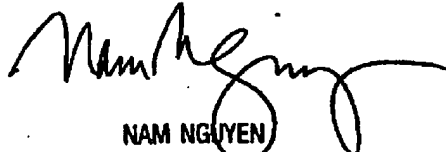

NAM NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

EXHIBIT C



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,139	01/16/2004	Eric B. Cummings	33532/US	7218
54342 7590 02/15/2008 Dorsey & Whitney, LLC 1420 Fifth Avenue Ste 3400 Seattle, WA 98101-4010				
EXAMINER				
OLSEN, KAJ K				
ART UNIT		PAPER NUMBER		
1795				
MAIL DATE		DELIVERY MODE		
02/15/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

APR 03 2008

Notice of Allowability	Application No.	Applicant(s)	
	10/760,139	CUMMINGS ET AL.	
	Examiner	Art Unit	
	KAJ K. OLSEN	1795	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the interview of 2-11-2008.

2. ☒ The allowed claim(s) is/are 23.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some* c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has **THREE MONTHS FROM THE "MAILING DATE"** of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in **ABANDONMENT** of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.

(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. <input type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____ 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material	5. <input type="checkbox"/> Notice of Informal Patent Application 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date <u>2-11-2008</u> . 7. <input type="checkbox"/> Examiner's Amendment/Comment 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____.
--	---

/Kaj K Olsen/
Primary Examiner, Art Unit 1795

APR 03 2008

Interview Summary	Application No.		Applicant(s)	
	10/760,139		CUMMINGS ET AL.	
	Examiner		Art Unit	
	KAJ K. OLSEN		1795	

All participants (applicant, applicant's representative, PTO personnel):

(1) KAJ K. OLSEN. (3) _____

(2) Tim Evans. (4) _____

Date of Interview: 11 February 2008.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.
If Yes, brief description: _____

Claim(s) discussed: _____

Identification of prior art discussed: _____

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant's representative initially contacted the examiner the week of February 4 because the PTO-85B form was missing from the Notice of Allowability mailed on 11-30-2007. After the examiner was unable to contact anyone responsible for these papers, the examiner indicated in a conversation on February 11 that the examiner would submit a supplementary Notice of Allowability with the hope that this supplementary Notice will contain the complete papers. The applicant's representative agreed to said approach.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Examiner's signature; if required
Attachment to a signed Office action.

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiner's Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

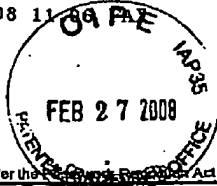
If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

EXHIBIT D

APR 03 2008

02/27/2008 11:09 AM

005



PTO/SB/17 (10-07)
Approved for use through 06/30/2010. OMB 0551-0032
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Privacy Act of 1996, no person is required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). FEE TRANSMITTAL For FY 2008		Complete if Known Application Number: 10/780,139 Filing Date: 01/18/2004 First Named Inventor: CUMMINGS Examiner Name: OLSEN Art Unit: 1795 Attorney Docket No.: 33532/US	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27			
TOTAL AMOUNT OF PAYMENT	(\$)	1740	

METHOD OF PAYMENT (check all that apply)	
<input type="checkbox"/> Check <input type="checkbox"/> Credit Card <input type="checkbox"/> Money Order <input type="checkbox"/> None <input type="checkbox"/> Other (please identify): _____	
<input checked="" type="checkbox"/> Deposit Account Deposit Account Number: 50-0583 Deposit Account Name: SNL by KCO	
For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)	
<input checked="" type="checkbox"/> Charge fee(s) indicated below <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee	
<input checked="" type="checkbox"/> Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 <input checked="" type="checkbox"/> Credit any overpayments	
WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.	

FEE CALCULATION							
1. BASIC FILING, SEARCH, AND EXAMINATION FEES							
	FILING FEES		SEARCH FEES		EXAMINATION FEES		
Application Type	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fees Paid (\$)
Utility	310	155	510	255	210	105	
Design	210	105	100	50	130	65	
Plant	210	105	310	155	160	80	
Reissue	310	155	510	255	620	310	
Provisional	210	105	0	0	0	0	
2. EXCESS CLAIM FEES							
Fee Description						Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)						50	25
Each independent claim over 3 (including Reissues)						210	105
Multiple dependent claims						370	185
Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims		Fee (\$)	Fee Paid (\$)
- 20 or HP =	x	=					
HP = highest number of total claims paid for, if greater than 20.							
Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)				
- 3 or HP =	x	=					
HP = highest number of independent claims paid for, if greater than 3.							
3. APPLICATION SIZE FEE							
If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$260 (\$130 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).							
Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)			
- 100 =	/ 50 =	(round up to a whole number) x	=				
4. OTHER FEE(S)							
Non-English Specification, \$130 fee (no small entity discount)						Fee Paid (\$)	
Other (e.g., late filing surcharge): ISSUE FEE (Fee Code 1501); PUBLICATION FEE (Fee Code 1505).						51740	

SUBMITTED BY		
Signature	Registration No. (Attorney/Agent)	Telephone
Timothy P. Evans	41, 013	925.294.3690
Name (Print/Type)	Date 02/27/2008	

This collection of information is required by 37 CFR 1.138. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 36 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

EXHIBIT E

APR 03 2008

02/27/2008 11:05 FAX

002



In re CUMMINGS, et al.

Attorney Docket No. 33532/US

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re Application of: CUMMINGS, et al.)

Serial Number: 10/760,139)

Examiner: OLSEN, K.J.

Filed: 01/16/2004)

Group Art Unit: 1795

For: DIELECTROPHORESIS DEVICE)

AND METHOD HAVING NON-)

UNIFORM ARRAYS FOR)

MANIPULATING PARTICLES)

Attorney Docket Number: 33532/US)

Mail Stop ISSUE FEE

Commissioner for Patents

Alexandria, VA 22313-1450

FEBRUARY 27, 2008

RESPONSE UNDER 37 CFR §1.311

Sir:

Applicants, through their representative, respectfully present the following reply to the CORRECTED NOTICE OF ALLOWANCE AND FEE(S) DUE mailed to the applicants on November 30, 2007 (copy enclosed) in the matter of U.S. Application Serial Number 10/760,139. Applicants did not receive the copy of PART B of form PTOL-85 with the initial NOTICE OF ALLOWANCE. In the interim period between the mailing of the NOTICE and the Applicants taking up this application to pay the fees the Applicants found that the Examiner originally assigned to this matter has left the employment of the USPTO and a new Examiner had been assigned. A review of PAIR indicated that this form was never included with the file wrapper in the instant application. Repeated calls to the newly assigned Examiner have failed to resolved the issue.

APR 03 2008

02/27/2008 11:06 FAX


003

In re. CUMMINGS, et al.

Attorney Docket No. 33532/US

Therefore, in order to avoid a failure to provide timely notice to the USPTO to pay the issue fees in this application, Applicants include herein form PTO/SB/17 "Fee Transmittal for FY 2008" and expressly authorize the Commissioner to charge the require fees to the Applicants' Deposit Account 50-0583 the amount of \$1740.00 to pay the issue fee and publication fee in application serial number 10/760,139.

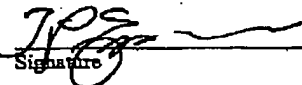
This response is:

Respectfully submitted by,
SANDIA NATIONAL LABORATORIES
Timothy Evans, Agent
Registration No. 41,015

P.O. Box 969, MS 9031
Livermore, CA 94551-0969
Telephone (925) 294 - 3690

CERTIFICATION UNDER 37 CFR 1.8

I hereby certify that this Response and Amendment and any documents referred to as being attached thereto are being deposited with the U. S. Postal Service as FIRST CLASS mail addressed to: Mail Stop ISSUE FEE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 or being facsimile transmitted to the USPTO at (571) 273-2885.

Date of Deposit: 2/27/2008TP Evans
Person Making Deposit
Signature

Attachments:

PTOL-85 "Corrected Notice of Allowance"
PTO/SB/17 "Fee Transmittal"

02/27/2008 11:05 FAX

001

**Sandia National Laboratories**

Operated for the U.S. Department of Energy by

Sandia Corporation

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Livermore, CA 94551-0089

Telephone (925) 294-3890

Facsimile (925) 294-3389

California Patent & Licensing Office

Date: 02/27/08
To: Mail Stop: ISSUE FEES
FAX: (571) 273-2885
Phone: ()
From: Timothy Evans
No. of Pages: 3+ cover

Subject: REQUEST AND AUTHORIZATION TO PAY ISSUE FEES in Application Serial
No. 10/760.139.

Private and Confidential Information

The information contained in the facsimile message is intended ONLY for the private and confidential use of the designated recipient named above. This message may be an attorney-client communication, and as such is privileged and confidential. If the reader of this message is NOT the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this communication in error. Please notify us immediately by telephone at 925-294-3890 and return the original message to us by mail. Thank you.

Exceptional Service in the National Interest

EXHIBIT F

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004



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FEB 27 2008

CORRECTED

NOTICE OF ALLOWANCE AND FEE(S) DUE

Edward W. Bulchis
DORSEY & WHITNEY LLP
1420 Fifth Avenue
Suite 3400
Seattle, WA 98101

11/30/2007

EXAMINER

VATHYAM, SUREKHA

ART UNIT

PAPER NUMBER

1795

DATE MAILED: 11/30/2007

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10760,139	01/16/2004	Eric B. Cummings	33532/US	7218

TITLE OF INVENTION: DIELECTROPHORESIS DEVICE AND METHOD HAVING NON-UNIFORM ARRAYS FOR MANIPULATING PARTICLES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1440	\$300	\$1740	02/19/2008

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. NEITHER A NOTICE OF ALLOWANCE NOR A CORRECTED NOTICE OF ALLOWANCE IS A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND ANY PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THE THREE MONTH PERIOD BEGINNING ON THE MAILING DATE OF THE PREVIOUSLY-MAILED NOTICE OF ALLOWANCE AND ENDING ON THE DATE DUE SHOWN ON THIS FORM, OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. MAILING OF THIS CORRECTED NOTICE OF ALLOWANCE DOES NOT CHANGE THE DATE DUE OF THE ISSUE FEE (AND ANY REQUIRED PUBLICATION FEE). IF A REPLY (WITH PAYMENT OF THE ISSUE FEE AND ANY PUBLICATION FEE) WAS FILED IN RESPONSE TO THE PREVIOUSLY-MAILED NOTICE OF ALLOWANCE, THEN NO FURTHER REPLY IS REQUIRED FROM APPLICANT.

All communications regarding this application must include the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE, unless advised to the contrary.

02/27/2008 FHETEK12 00000107 500583 10760139

01 FC:1501 1440.00 DA
02 FC:1504 300.00 DA

Page 1 of 2

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

PAGE 4/5 * RCVD AT 2/27/2008 12:33:23 PM [Eastern Standard Time] * SVR:USPTO-EFXXRF-6/46 * DNIS:2732885 * CSID: * DURATION (mm-ss):01-32

PAGE 32/34 * RCVD AT 4/3/2008 2:48:57 PM [Eastern Daylight Time] * SVR:USPTO-EFXXRF-6/16 * DNIS:2738300 * CSID: * DURATION (mm-ss):06-58

EXHIBIT G

APR 03 2008



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,139	01/16/2004	Eric B. Cummings	33532/US	7218
EXAMINER				
OLSEN, KAJ K				
ART UNIT		PAPER NUMBER		
1795				
MAIL DATE		DELIVERY MODE		
03/26/2008		PAPER		

7590 03/26/2008
Dorsey & Whitney, LLC
1420 Fifth Avenue
Ste 3400
Seattle, WA 98101-4010

Notice of Abandonment

This application is abandoned in view of:

1. ☐ The applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission date _____), which is after the expiration of the period for reply (including a total extension of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113(a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of:
 - (1) a timely filed amendment which places the application in condition for allowance;
 - (2) a timely filed Notice of Appeal (with appeal fee);
 - (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box e below).
 - (d) ☐ No reply has been received.
2. ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☒ The issue fee and publication fee, if applicable, was received on 2-27-08 (with a Certificate of Mailing or Transmission date _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$ _____ is insufficient. A balance of \$ _____ is due.
The issue fee required by 37 CFR 1.18 is \$ _____.
The publication fee, if required by 37 CFR 1.18(d), is \$ _____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawing have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

Petitions to revive under 37 CFR 1.137(a) or (b), or request to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

FORM PTO-ABNO (Rev. 08/07)